

COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

March 28, 2008

In the Matter of

Docket No. DEP-05-721

File No. PAN-CE-05-C002

Ronald P. Anger and Ranger, Inc.

Fitchburg

Final Decision

I adopt the Recommended Final Decision of the Administrative Magistrate, with the exception of the reduction in the penalty amount for deterrence and financial condition. 310 CMR 5.25(8)-(10). The Department had adjusted the penalty amount upward by 25% for these factors. The purpose of the upward adjustment was to deter the violator and other potential violators from future noncompliance. The Administrative Magistrate concluded that the penalty should not be adjusted upward based upon the testimony of the president of Ranger, Inc., Ronald Anger, that the company had let go two of its four employees and sold equipment due to a lack of business after the Department's enforcement action. The Administrative Magistrate reduced the penalty from \$19,575.00 to \$16,312.50.

The Department considers the factors and determines the amount of the penalty at the time of issuance of the Penalty Assessment Notice. 310 CMR 5.32(3). Nothing in the regulations suggests that a penalty should be recalculated to address changed financial

circumstances, particularly to relieve the violator of adverse consequences stemming from the violation. Accordingly, the penalty amount is \$19,575.00.

The parties to this proceeding are notified of their right to file a motion for reconsideration of this Decision, pursuant to 310 CMR 1.01 (14)(d). The motion must be filed with the Docket Clerk and served on all parties within seven business days of the postmark date of this Decision. A person who has the right to seek judicial review may appeal this Decision to the Superior Court pursuant to M.G.L. c. 30A, §14(1). The complaint must be filed in the Court within thirty days of receipt of this Decision.

This final document copy is being provided to you electronically by the
Department of Environmental Protection. A signed copy of this document
is on file at the DEP office listed on the letterhead.

Laurie Burt
Commissioner